IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.66 OF 2006

IN

SUIT NO.2044 OF 2005

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Tarun Desai karta of HUF
M/s.Prime Products ...Plaintiffs

v/s.

M/s.Telirama Enterprises Ltd. ...Defendants

...

Ms.Trupti Gohil for the Plaintiffs.

Mr.Sanskar Marathe i/b Deven Dwarkadas & Partners for the Defendants.

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CORAM: D.K.DESHMUKH, J.

DATED: 19TH JUNE, 2006

P.C.:

Admittedly the Defendant has been served. Defendant has not applied for leave to defend the suit.

2. I have heard the learned Counsel for the Plaintiff and the Defendant. I have perused the record. Perusal of the record shows that the Plaintiff has produced the invoices as also the delivery challan. Demand notice was issued by the Plaintiff. In reply to the demand notice, the Defendant does not deny the receipt of the goods. Defence to the demand notice is that 66 Batteries that were supplied by the Plaintiff were found to be defective. Firstly, the stand that Batteries were defective was taken only in the reply to the demand notice and not at any time before. The Plaintiff has placed material on record to show that the 66 Batteries which have been referred to in the reply are not the suit Batteries. In the absence of any

application for leave to defend, in terms of provisions of Order XXXVII of the CPC, the Plaintiff becomes entitled to judgment.

3. I have heard the learned counsel for both sides. I have also perused the record. Considering the material on record, in my opinion, the Plaintiff becomes entitled to judgment. Summons for judgment is, therefore, granted. Suit of the Plaintiff is decreed in terms of prayer clauses (a) & (b) of the suit. Refund of court fees as per rules.

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